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FISCAL IMPACT STATEMENT

LS 7101

BILL NUMBER: SB 359

NOTE PREPARED: Feb 22, 2006

BILL AMENDED: Feb 21, 2006

SUBJECT: Procurement and State Public Works.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR: Rep. Messer

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Equipment and Software:* This bill provides that advance payment may be made for equipment or software acquired by a state agency, regardless of cost, with the prior approval of the Budget Agency under certain circumstances.

Retainage: The bill provides discretion to determine when retainage on a state public works contract should be placed in an escrow account.

Purchasing: It permits an invitation to bid to contain evaluation criteria other than the specific criteria described in the statute. The bill authorizes a purchasing agency to conduct discussions with bidders before awarding a contract under an invitation for bids or after receiving quotes. It authorizes use of a reverse auction to issue requests for proposals (RFP) and to receive proposals. The bill makes other changes relating to reverse auctions. It eliminates the requirement for making a written determination as a condition to award a contract using an RFP. This bill permits information obtained from an offeror's proposal to be used in discussions with other offerors under certain circumstances. It requires a purchasing agency to maintain a bid register documenting negotiations with bidders.

Small Business Preference: The bill provides that an information technology, life sciences, transportation, or logistics business that employs more than 100 persons or that has annual sales of more than \$5,000,000 is not eligible for a small business preference.

The bill repeals statutes: (1) making bidding the default procurement procedure; (2) relating to changes in bid prices; (3) that prohibit the use of a reverse auction to purchase certain construction equipment; (4) relating

to conducting discussions with offerors during an RFP process; and (5) permitting adoption of rules or policies relating to the use of an RFP in place of competitive bidding. The bill makes technical changes.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Equipment and Software:* The impact of this provision would depend on how often the Budget Agency allows advance payment for equipment or software acquired by a state agency. The provision may make it easier for the state to acquire some equipment and computer software when an advance payment is required.

Retainage: The provision to allow the state to decide if a retainage is required could reduce the administrative costs of retainage on certain projects. The provision would probably have minor state fiscal impact.

Purchasing: The changes in the bidding process should reduce the public purchasing costs. It is unknown how much the changes would save.

(Revised) *Small Business Preference:* Current law requires the Indiana Department of Administration (IDOA) to adopt rules concerning small business set-aside purchases. IDOA could incur minimal costs to adopt rules defining a small business in the information technology, life sciences, transportation, or logistics sectors as a business with fewer than 100 employees and annual sales of less than \$5.0 M.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *Small Business Preference:* Current law permits governmental bodies, including the bodies of political subdivisions, to establish criteria for determining small businesses. The rules adopted by a governmental body must include specific criteria in the wholesale, construction, retail, and manufacturing sectors. Governmental bodies could incur costs for adding the criteria for businesses in the information technology, life sciences, transportation, or logistics sectors.

See also *Explanation of State Expenditures* regarding purchasing.

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

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